

## **IC 35-45-10**

### **Chapter 10. Stalking**

#### **IC 35-45-10-1**

##### **"Stalk" defined**

Sec. 1. As used in this chapter, "stalk" means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity.

*As added by P.L.242-1993, SEC.4.*

#### **IC 35-45-10-2**

##### **"Harassment" defined**

Sec. 2. As used in this chapter, "harassment" means conduct directed toward a victim that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.

*As added by P.L.242-1993, SEC.4.*

#### **IC 35-45-10-3**

##### **"Impermissible contact" defined**

Sec. 3. As used in this chapter, "impermissible contact" includes but is not limited to knowingly or intentionally following or pursuing the victim.

*As added by P.L.242-1993, SEC.4.*

#### **IC 35-45-10-4**

##### **"Victim" defined**

Sec. 4. As used in this chapter, "victim" means a person who is the object of stalking.

*As added by P.L.242-1993, SEC.4.*

#### **IC 35-45-10-5**

##### **Criminal stalking**

Sec. 5. (a) A person who stalks another person commits stalking, a Class D felony.

(b) The offense is a Class C felony if at least one (1) of the following applies:

(1) A person:

(A) stalks a victim; and

(B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:

(i) sexual battery (as defined in IC 35-42-4-8);

- (ii) serious bodily injury; or
- (iii) death.

(2) A protective order to prevent domestic or family violence, a no contact order, or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:

(A) IC 31-15 and IC 34-26-5 or IC 31-1-11.5 before its repeal (dissolution of marriage and legal separation).

(B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).

(C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).

(D) IC 34-26-5 or IC 34-26-2 and IC 34-4-5.1 before their repeal (protective order to prevent abuse).

(E) IC 34-26-6 (workplace violence restraining orders).

(3) The person's stalking of another person violates an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion if the person has been given actual notice of the order.

(4) The person's stalking of another person violates a no contact order issued as a condition of probation if the person has been given actual notice of the order.

(5) The person's stalking of another person violates a protective order issued under IC 31-14-16-1 and IC 34-26-5 in a paternity action if the person has been given actual notice of the order.

(6) The person's stalking of another person violates an order issued in another state that is substantially similar to an order described in subdivisions (2) through (5) if the person has been given actual notice of the order.

(7) The person's stalking of another person violates an order that is substantially similar to an order described in subdivisions (2) through (5) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians if the person has been given actual notice of the order.

(8) A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

(c) The offense is a Class B felony if:

(1) the act or acts were committed while the person was armed

with a deadly weapon; or

(2) the person has an unrelated conviction for an offense under this section against the same victim or victims.

(d) Notwithstanding subsection (a), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(c) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(c) do not limit the matters the court may consider in making its determination.

(e) Notwithstanding subsection (b), the court may enter judgment of conviction of a Class D felony and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(c) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(c) do not limit the matters the court may consider in making its determination.

*As added by P.L.242-1993, SEC.4. Amended by P.L.225-1996, SEC.1; P.L.1-1997, SEC.150; P.L.1-1998, SEC.198; P.L.280-2001, SEC.52; P.L.133-2002, SEC.66.*